

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of AT&T Corp., Complainant, v. BellSouth Telecommunications, Inc., Defendant.))))))))))	File No. EB-04-MD-010
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ORDER OF DISMISSAL

Adopted: April 16, 2007

Released: April 17, 2007

By the Chief, Market Disputes Resolution Division:

1. On March 8, 2007, AT&T Inc., on behalf of its wholly owned affiliates, BellSouth Telecommunications, Inc. and AT&T Corp., submitted a pleading entitled “Motion to Dismiss This Action” (“Motion”). For the reasons described below, we grant that Motion and terminate the above-captioned proceeding.

2. On July 1, 2004, pursuant to section 208 of the Communications Act of 1934, as amended (the “Act”),¹ AT&T Corp. (“AT&T”) filed a formal complaint against BellSouth Telecommunications, Inc. (“BellSouth”) challenging the lawfulness of a tariffed BellSouth special access discount plan. On December 9, 2004, the Commission issued an order finding that BellSouth’s discount plan violated sections 272(c)(1) and 272(e)(3) of the Act, 47 U.S.C. §§ 272(c)(1) and 272(e)(3).² BellSouth sought review of the Commission’s order in the U.S. Court of Appeals for the District of Columbia Circuit.³ In an opinion released Dec. 1, 2006, the Court vacated the Commission’s order and remanded for further proceedings consistent with its opinion.⁴ The Court’s mandate issued on January 25, 2007.⁵

3. In their Motion, the parties note that both the sole complainant (AT&T Corp.) and the sole defendant (BellSouth) are now wholly owned affiliates of AT&T Inc., and that further

¹ 47 U.S.C. § 208.

² *AT&T Corp. v. BellSouth Telecommunications, Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 23898 (2004).

³ *BellSouth Telecommunications, Inc. v. Federal Communications Commission*, Petition for Review, No. 05-1032 (D.C. Cir. Feb. 4, 2005).

⁴ *BellSouth Telecommunications, Inc. v. Federal Communications Commission*, 469 F.3d 1052 (D.C. Cir. 2006).

⁵ *BellSouth Telecommunications, Inc. v. Federal Communications Commission*, No. 05-1032, Mandate (D.C. Cir. Jan. 25, 2007).

proceedings would serve no purpose. Accordingly, on behalf of those affiliates, AT&T Inc. moved for dismissal of the complaint and of the proceeding.

4. We are satisfied that dismissing the complaint will serve the public interest by promoting the private resolution of disputes and by eliminating the need for further litigation and the expenditure of further time and resources of the parties and this Commission.

5. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 4(j), and 208 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), and 208, and the authority delegated in sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, that the Motion is GRANTED, the Complaint is DISMISSED with prejudice, and this proceeding is TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

Alexander P. Starr
Chief, Market Disputes Resolution Division